



## MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Zermeno, followed by the Pledge of Allegiance.

## ROLL CALL

Present: COMMISSIONERS Bogue, McKillop, Sacks, Thnay  
CHAIRPERSON Zermeno  
Absent: COMMISSIONER Fraas, One Vacancy

Staff Members Present: Anderly, Bauman, Conneely, Looney, Paternaude, Pearson, Rizk

General Public Present: Approximately 20

## PUBLIC COMMENT

## AGENDA

1. **Variance No. PL-2004-0079 – Signs Designs (Applicant) / Harman Management (Owner)** – Request to Install Two Logo Signs on The Roof of an Existing Fast Food Restaurant (KFC) Where Roof Signs are Prohibited and Where The Height of The Signs Exceed 24" (48" Proposed) – The Project is Located at 1299 W. Tennyson Road, at The Corner of Patrick Avenue (Continued from May 27, 2004)
2. **Conditional Use Permit 2003-0153 – Donald Imwale (Applicant/Owner)** – One-Year Extension of Time for a Multi-Tenant Retail Building at the Target Center – The Project is located at the Northeast Corner of Whipple Road
3. **Draft Environmental Impact Report for the Mt. Eden Annexation Study**

## PUBLIC HEARINGS

1. **Variance No. PL-2004-0079 – Signs Designs (Applicant) / Harman Management (Owner)** – Request to Install Two Logo Signs on The Roof of an Existing Fast Food Restaurant (KFC) Where Roof Signs are Prohibited and Where The Height of The Signs Exceed 24" (48" Proposed) – The Project is Located at 1299 W. Tennyson Road, at The Corner of Patrick Avenue (Continued from May 27, 2004)

Associate Planner Pearson discussed the previous hearing and noted the attached findings and conditions per instructions of the Commission at the May 27 meeting. He commented that the original Conditions of Approval from 1986 are still in effect.

**DRAFT**

Chairperson Zermeno noted that all of the conditions requested at the earlier meeting were included.

Commissioner Sacks thanked staff for including the original Conditions with this packet.

The public hearing opened and closed at 7:34 p.m.

Assistant City Attorney Conneely clarified that the application had been approved at the previous meeting and now the Commission would vote on findings and conditions.

Commissioner McKillop thanked staff for coming back so quickly with the conditions and findings.

Commissioner Thnay **moved**, seconded by Commissioner Sacks, **approval for the findings and conditions**. The motion **passed unanimously**, with Commissioner Fraas absent.

2. **Conditional Use Permit 2003-0153 – Donald Imwale (Applicant/Owner) – One-Year Extension of Time for a Multi-Tenant Retail Building at the Target Center – The Project is located at the Northeast Corner of Whipple Road**

Principal Planner Patenaude explained the need for the extension adding that the applicant was available if there are any comments or questions.

The public hearing opened and closed at 7:38 p.m.

Chairperson Zermeno said he was happy with Target and this store as well. He asked also about the Circuit City building and the relocation of the drive-way.

Principal Planner Patenaude noted that Circuit City brought in their application today.

Commissioner Sacks **moved**, seconded by Commissioner Thnay, to approve the one-year extension of time. The motion **passed unanimously**, with Commissioner Fraas absent.

3. **Draft Environmental Impact Report for the Mt. Eden Annexation Study**

Associate Planner Rizk discussed the number of meetings held with residents of the area as well as how the information had been disseminated throughout the Mt. Eden area. This meeting was the official DEIR hearing. He noted that this is a program DEIR for the area, other CEQA review may have to be made for any specific projects. He described the annexation area as three islands surrounded by the City of Hayward. No changes to the General Plan land use designations will be made. He commented on the potential development analyzed in the DEIR, which includes 475 potential additional dwellings as well as further industrial square footage. He noted the potential noise and geological impacts as well as the mitigation measures proposed. There would be 7.3 acres of additional parkland needed in the area. As to schools, paying school impact fees or coordinating with the school district would be required for further mitigation. As to the next steps, there will be a public comment period until June 21, 2004. The Final EIR will respond to all the comments and



public comments. Then a Planning Commission hearing would be scheduled for the end of July with a public hearing of the City Council in the Fall. He noted the purpose of this hearing was to hear comments on the Draft Environmental Impact Report.

Commissioner Sacks emphasized the thoroughness of the report. She asked for staff to address Appendix 8.3 regarding LAFCOs identification of the five islands within the City limits and their encouraged annexation of the remaining two islands in the Mt. Eden area. They expressed concern that the cost of future improvements without annexation in these areas would be infeasible. She then asked staff to discuss why they were not going for all five islands.

Associate Planner Rizk noted strong neighborhood opposition to annexation in the other two islands and also that Mohrland Mutual Water Association, a private water company, serves those areas, which could be negatively impacted. He noted that development potential is greater in the three islands in the study area, rather than the other two. However, since all five are in the County Redevelopment Area, tax increment funds generated would go into the Redevelopment fund rather than the General Fund. Preliminary analysis shows that there would be sufficient revenues generated to help finance improvements in the study area as well as for the other two islands.

Commissioner Sacks also wondered whether there might be properties which might need to be condemned within the other two areas if they are not brought into the City of Hayward.

Commissioner McKillop commented that her concerns and questions were similar. Specifically she asked about soil and groundwater contamination and what kinds of measures would be taken so that this is not so toxic.

Associate Planner Rizk explained that the City has done little since Alameda County Health Department is responsible. Further site investigations once the property is annexed would be determine the levels of contamination.

Planning Manager Anderly added that it would be unusual for the property to be unusable since there are various alternatives to land cleanup. It would just be a matter of cost.

Commissioner McKillop wondered about the cost and whether it would be still be attractive to a developer.

Planning Manager Anderly explained that most of the land is large residential lots and is already inhabited so the problems should not make the land unusable.

Commissioner Thnay said they were assuming that the extension of West A Street, Clawiter Road and Whitsell Street would be completed before the project is constructed; otherwise there will be very congested conditions in that area.

Associate Planner Rizk said staff is looking at other mitigation measures to address the levels of

service at West A Street/Hesperian Boulevard intersection.

Commissioner Thnay said just looking at this level of development with no traffic improvements is almost unimaginable. He then asked whether pedestrian and bicycle ways would be tied into this project for the sidewalk and bike route to the Bay as part of the conditions.

Deputy Director of Public Works Bauman responded that the City would include gutters, sidewalks and improved pedestrian access. However, there is nothing specifically proposed for a bike route, though bike routes exist in the area.

Commissioner Thnay commented that the island near Chabot College would be a good opportunity for City of Hayward to further enhance the College, perhaps encouraging research and development for the area, rather than light industrial.

Chairperson Zermefio asked how the number of 475 for residential housing was derived.

Associate Planner Rizk said the General Plan land use designation of Medium Density was applied and staff took a middle range.

Chairperson Zermefio then asked about the extension of Corsair and how far that might be into the future.

Deputy Director of Public Works Bauman explained that some funding is available and the City is looking for more money so they cannot put a date on it for now.

Chairperson Zermefio then asked about widening Clawiter Road between Depot and Route 92.

Deputy Director of Public Works Bauman noted it was not part of the circulation element of the General Plan.

Chairperson Zermefio commented that some residents in the other two islands seem to be opposed to annexation.

Associate Planner Rizk explained that residents in these two areas appeared less supportive of annexation than the residents in the other islands.

The public hearing opened at 8:08 p.m.

Ashim Bassam asked how long the process would take and when it will be complete. He is trying to lease property in the area for a business.

Associate Planner Rizk said they anticipate that this will be heard by LAFCO possibly early next year. It will entail approving, and then executing and recording the documents. The next stage will be funding public improvements and making those improvements. It could take a year or more. He then suggested he could sit down with Mr. Bassam to better explain about the process.

Jackie Bertillion lives in the area not being considered. She noted that they do want to hang onto

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their precious pristine water. She expressed concern about children in the other areas who would be traveling through the undeveloped area.

Don Shepherd explained that the reason for excluding the two islands was that the water company providing the water could be negatively effect. He assumed the assumption was a negative effect on the water company and the people. He agreed that people would be mad if the water company didn't exist. He suggested the Commission ask staff.

Chairperson Zermefio asked if he was in favor of annexation.

Mr. Shepherd said the residents just found out last month about tax increment financing which might pay for the infrastructure. In October, they voiced opposition to the inclusion, adding that they are now polling people to find out if they would like to be included.

Fred Sullivan has lived in the Mt. Eden area for 72 years. Ten years ago an effort was made to annex the area. Tennyson and South Garden areas were included. It was cost prohibitive at that time so they stopped the effort to be included. No one knew they had the option of an election. He said they thought they had settled this matter for all time. It would have meant forming assessment districts at a cost to each resident of \$470 a month. They formed committees to fight the annexation this time but since then in the last month, residents have discovered the tax increment policy. He stated they had never known anything about it. The County Planning Commission gave them a booklet. They would like to be included at this point. They need things like fire plugs, and sewers. The large tracts in their area have already been developed, including the nursery. These were annexed to the City and new homes are there. In their area, no land is left to develop. He noted that they have been working with Supervisor Gail Steele, and now many of the residents want all five islands to be included.

Sandra Lovell representing Mohrland Mutual Water Association, said the last time this went around they found themselves within the City of Hayward. The City Council promised that if owners would agree to the landuse, all the improvements would be paid for by the developer. Staff and the developer then made an agreement to put a time limit on the requirement for infrastructure improvements and conditioned it, only if the entire island was annexed. Mohrland got improvements by standing their ground against a developer at that time. She stated that they were not being told the truth again. If they are annexed, the City should take all five islands and give everyone the improvements. Developers want development in the other side. The residents want to be a part but don't want their say taken away.

Chairperson Zermefio suggested that staff has had meetings in the area. He would try to get another meeting arranged.

Ms. Lovell said she had been at all of them and will continue to go to all the meetings.

Marilou June Kerns asked about the projected 475 homes and saying it was not believable to say

there would be no significant transportation impacts. She asked whether those residents in the islands that are both included and not included would have to get off of Mohrland Water and asked what does that mean.

Associate Planner Rizk explained that as long as no redevelopment on the property occurs, the City will not require connection to the City's water system. Only if there is redevelopment or intensification of use, will that be required. He indicated that if the other two islands are annexed and improvements installed the properties would then have access to the City of Hayward's water system, which might improve the chances for redevelopment which might then undermine the Mohrland Company as people connect to the City's water system.

Ms. Kerns suggested that since the schools are at or near capacity, she thought there was mention made at a previous meeting of the possibility of a new school.

Gail Steele said she was speaking for the people of the area. She said she attended the City Council workshop and said to them as she was tonight, that she thinks the City should pursue annexing the whole five islands. She emphasized that there had been a lot of misinformation. LAFCO has a policy of no islands. She urged the City to slow it down, they have done the EIR. She suggested taking the time to find out whether the rest of the community wants to come in. One of the reason for the residents of the two excluded island pulling in now is that they discovered the possibility of tax increment financing for the improvements, and that redevelopment might work out with the residents. She emphasized that there is one more issue, some people need to have their property grandfathered in. She suggested that the City find out how many need to be taken care of. The Fry property for example, they should be able to keep their land and not be pressured to subdivide. She suggested it is comparable to the Old Highlands with the issue of sidewalks, etc. and asked why not make it unique. Many of these properties could be brought into conformance as the area develops and property is sold. She urged everyone to take the time and work together to make everyone happy.

Commissioner Sacks asked whether, if the two islands stay out, would not that be proof of their individuality.

Supervisor Steele noted that any land under 75 acres could be taken in by the City and now is the time to work together. She indicated that the Mayor had said previously that the City can take the land without a vote and urged not to do that. She said money would come into Hayward with the redevelopment and she urged everyone to work together. It is a delicate thing. There is a lot of anger from those residents so it might help to be sensitive to their issues.

Commissioner Thnay then asked her for a realistic assessment of the process.

Supervisor Steele suggested spending the summer finding out whether people in these areas would like to be included. Staff could then come back in September to authorize a supplemental EIR which in turn could go in to LAFCO. Again she urged the City of Hayward to try to get everyone included. She offered to help facilitate the meetings and do mailings adding that she would cooperate. Her appraisal for the processing time was probably by the end of year.

Richard Brenkwitz expressed concern with another 475 homes to built in the area. He asked

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whether City Manager Armas meant that by 2009 all of the property in the area would be developed or was that a percentage of that property.

Associate Planner Rizk said a consultant was hired to do a fiscal impact study and it was assumed that by 2009, the hundred or so homes there would stay and the analysis assumed the value of the existing homes. He reiterated that the 475 number was for the purposes of an impact assessment of EIR.

Mr. Brenkwitz also suggested that with the 450 homes, there would be more traffic. He owns property on Middle Lane and said it will have to be widened. Will City buy it or will property owners have to donate it.

Deputy Director of Public Works Bauman said one of the improvements calls for widening of Middle Lane. Owners always will be reimbursed for the fair market value of the property. He admitted there might be some dedications, there will be appropriate reimbursements.

Commissioner Bogue said people are still confused about what happens. There was talk at the last community meeting that a developer would come in ahead and build infrastructure. He asked what happens to a resident on existing property to which improvements are made and indicated no one is being forced to sell under an annexation plan nor under a developer plan.

Allen Bertillion thanked Gail Steel, saying it was good to listen to the residents in the area. He noted that he has been a resident to the area 30 years and is a newcomer. They were set up with their water system prior to Hetch-Hetchy and their water is a treasure. There are other cities with overlapping water systems, so that should not be a problem. At one of the first meetings, they were anticipating a fight. He said the Council was surprised by the turnout. At the first meeting, they thought it would be the same as it was 10 years ago with costs of \$30-40,000 a year. He said the City staff told us the procedure and they were not listening but just telling. The City then cut us out because we were hostile because we did not have all the information we needed. People are now having a change of heart. He believed they need additional time to negotiate with the City.

The public hearing closed at 8:52 p.m.

Commissioner Bogue asked about the tax increment funding clarifying that it was created by the County Redevelopment Agency and can go to any island for improvement which could be taken from all five areas.

Associate Planner Rizk explained that the County Redevelopment Area Project requires spending money generated in a subarea to be spent in that subarea.

Commissioner Sacks thanked the public for attending. She added that it was a pleasure to deal with adults with respect.

Chairperson Zermeno recognized that the Commission was not taking a vote on this issue today, but wondered how strongly the members could recommend holding another meeting or two.

Associate Planner Rizk said another public meeting is scheduled for July which staff will try to hold at Ochoa Middle School where previous meetings have been held.

Commissioner Thnay said it seems like the extension of time is necessary. The reason the City of Palo Alto has the character in terms of their housing and streets is because of the process and citizenry, which is involved in the process, which should dictate how the City of Hayward looks. He said he was glad to see these people who want to see Hayward stay unique and be involved. In the end it is always a better product.

Commissioner Bogue emphasized the need for parks in the area and that the Neighborhood Plan talks about expanding Greenwood Park. If that property is not available, another park is needed. He suggested not to just collect in-lieu fees but to create a new park since open space needs to be provided for the neighborhood.

Chairperson Zermeno spoke about Rancho Arroyo Park and wondered if that can be expanded. If it cannot, he suggested looking for new park sites. He also spoke in favor of annexing all five of the islands. He was glad many of the residents are expressing an openness to talking. He said he did not like the concept of islands. He noted that half of Chabot College's tract is part of one of the islands. As to Fry's mansion, look to annexing it into Chabot College for a faculty club. He thanked everyone for coming.

Commissioner Bogue emphasized that people should be able to stay in their homes no matter what is proposed.

Commissioner McKillop also thanked everyone for coming. She said she knows more about the annexation as a result. She too would like to see the five islands annexed. She suggested that staff take some time to make this happen. It would be better for the City.

Associate Planner Rizk said he appreciated the Commissioners' comments.

## **ADDITIONAL MATTERS**

### **4. Oral Report on Planning and Zoning Matters**

There were no oral reports.

### **5. Commissioners' Announcements, Referrals**

Commissioner Sacks commented on a building under construction on Main Street between B and C, which appears to be unfinished. She noted in particular the utilities on the front of the building next to the sidewalk.

Commissioner Bogue reported a conversation with a resident who was concerned about traffic movement on Hesperian at Depot Road, with particular regard to the left turn lanes.



**MINUTES**



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Assistant Public Works Director Bauman said he would check into it.

Chairperson Zermefio congratulated someone for fixing the gazebo on Hesperian near Chabot. He asked about the progress of the Pollo Loco, saying he ran into the owner who seemed hesitant to discuss it.

Principal Planner Patenaude explained that they were close to issuing a building permit but there are some issues with signage at the location.

Commissioner McKillop again announced an upcoming fundraiser for the Kids Breakfast Club this Saturday at Numanali on B Street.

**APPROVAL OF MINUTES**

– May 27, 2004

**ADJOURNMENT**

The meeting was adjourned by Chairperson Zermefio at 9:05 p.m.

**APPROVED:**

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Christopher Thnay, Secretary  
Planning Commission

**ATTEST:**

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Edith Looney  
Commission Secretary

**DRAFT**